

1-1 By: Birdwell, et al. S.B. No. 3
 1-2 (In the Senate - Filed March 3, 2015; March 3, 2015, read
 1-3 first time and referred to Subcommittee on Border Security;
 1-4 March 16, 2015, reported adversely, with favorable Committee
 1-5 Substitute to Committee on Veteran Affairs and Military
 1-6 Installations; March 23, 2015, reported adversely, with favorable
 1-7 Committee Substitute by the following vote: Yeas 5, Nays 1,
 1-8 1 present not voting; March 23, 2015, sent to printer.)

1-9 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-10				
1-11	X			
1-12	X			
1-13	X			
1-14		X		
1-15	X			
1-16	X			
1-17				X

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 3 By: Birdwell

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the powers and duties of the Texas Department of Public
 1-22 Safety, military and law enforcement training, and the
 1-23 investigation, prosecution, punishment, and prevention of certain
 1-24 offenses; creating an offense and increasing a criminal penalty;
 1-25 authorizing fees.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. The legislature finds that the deployment of
 1-28 Texas National Guard troops to the border region and the increase in
 1-29 the number of Texas Department of Public Safety troopers assigned
 1-30 to the border region have made a significant impact on securing the
 1-31 border. It is the intention of the legislature to continue to fund
 1-32 the Texas National Guard's deployment to the border region and to
 1-33 fund the Texas Department of Public Safety's expansion of its
 1-34 operations in the border region. The legislature finds that the
 1-35 deployment of Texas National Guard troops to the border region is
 1-36 needed until the Texas Department of Public Safety has the
 1-37 personnel to fully secure the border region without the assistance
 1-38 of the Texas National Guard troops.

1-39 SECTION 2. Article 2.12, Code of Criminal Procedure, is
 1-40 amended to read as follows:

1-41 Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace
 1-42 officers:

1-43 (1) sheriffs, their deputies, and those reserve
 1-44 deputies who hold a permanent peace officer license issued under
 1-45 Chapter 1701, Occupations Code;

1-46 (2) constables, deputy constables, and those reserve
 1-47 deputy constables who hold a permanent peace officer license issued
 1-48 under Chapter 1701, Occupations Code;

1-49 (3) marshals or police officers of an incorporated
 1-50 city, town, or village, and those reserve municipal police officers
 1-51 who hold a permanent peace officer license issued under Chapter
 1-52 1701, Occupations Code;

1-53 (4) rangers, ~~and~~ officers, and members of the
 1-54 reserve officer corps commissioned by the Public Safety Commission
 1-55 and the Director of the Department of Public Safety;

1-56 (5) investigators of the district attorneys', criminal
 1-57 district attorneys', and county attorneys' offices;

1-58 (6) law enforcement agents of the Texas Alcoholic
 1-59 Beverage Commission;

1-60 (7) each member of an arson investigating unit

2-1 commissioned by a city, a county, or the state;

2-2 (8) officers commissioned under Section 37.081,

2-3 Education Code, or Subchapter E, Chapter 51, Education Code;

2-4 (9) officers commissioned by the General Services

2-5 Commission;

2-6 (10) law enforcement officers commissioned by the

2-7 Parks and Wildlife Commission;

2-8 (11) airport police officers commissioned by a city

2-9 with a population of more than 1.18 million located primarily in a

2-10 county with a population of 2 million or more that operates an

2-11 airport that serves commercial air carriers;

2-12 (12) airport security personnel commissioned as peace

2-13 officers by the governing body of any political subdivision of this

2-14 state, other than a city described by Subdivision (11), that

2-15 operates an airport that serves commercial air carriers;

2-16 (13) municipal park and recreational patrolmen and

2-17 security officers;

2-18 (14) security officers and investigators commissioned

2-19 as peace officers by the comptroller;

2-20 (15) officers commissioned by a water control and

2-21 improvement district under Section 49.216, Water Code;

2-22 (16) officers commissioned by a board of trustees

2-23 under Chapter 54, Transportation Code;

2-24 (17) investigators commissioned by the Texas Medical

2-25 Board;

2-26 (18) officers commissioned by:

2-27 (A) the board of managers of the Dallas County

2-28 Hospital District, the Tarrant County Hospital District, the Bexar

2-29 County Hospital District, or the El Paso County Hospital District

2-30 under Section 281.057, Health and Safety Code;

2-31 (B) the board of directors of the Ector County

2-32 Hospital District under Section 1024.117, Special District Local

2-33 Laws Code; and

2-34 (C) the board of directors of the Midland County

2-35 Hospital District of Midland County, Texas, under Section 1061.121,

2-36 Special District Local Laws Code;

2-37 (19) county park rangers commissioned under

2-38 Subchapter E, Chapter 351, Local Government Code;

2-39 (20) investigators employed by the Texas Racing

2-40 Commission;

2-41 (21) officers commissioned under Chapter 554,

2-42 Occupations Code;

2-43 (22) officers commissioned by the governing body of a

2-44 metropolitan rapid transit authority under Section 451.108,

2-45 Transportation Code, or by a regional transportation authority

2-46 under Section 452.110, Transportation Code;

2-47 (23) investigators commissioned by the attorney

2-48 general under Section 402.009, Government Code;

2-49 (24) security officers and investigators commissioned

2-50 as peace officers under Chapter 466, Government Code;

2-51 (25) an officer employed by the Department of State

2-52 Health Services under Section 431.2471, Health and Safety Code;

2-53 (26) officers appointed by an appellate court under

2-54 Subchapter F, Chapter 53, Government Code;

2-55 (27) officers commissioned by the state fire marshal

2-56 under Chapter 417, Government Code;

2-57 (28) an investigator commissioned by the commissioner

2-58 of insurance under Section 701.104, Insurance Code;

2-59 (29) apprehension specialists and inspectors general

2-60 commissioned by the Texas Juvenile Justice Department as officers

2-61 under Sections 242.102 and 243.052, Human Resources Code;

2-62 (30) officers appointed by the inspector general of

2-63 the Texas Department of Criminal Justice under Section 493.019,

2-64 Government Code;

2-65 (31) investigators commissioned by the Texas

2-66 Commission on Law Enforcement under Section 1701.160, Occupations

2-67 Code;

2-68 (32) commission investigators commissioned by the

2-69 Texas Private Security Board under Section 1702.061 [~~1702.061(f)~~],

3-1 Occupations Code;
 3-2 (33) the fire marshal and any officers, inspectors, or
 3-3 investigators commissioned by an emergency services district under
 3-4 Chapter 775, Health and Safety Code;
 3-5 (34) officers commissioned by the State Board of
 3-6 Dental Examiners under Section 254.013, Occupations Code, subject
 3-7 to the limitations imposed by that section;
 3-8 (35) investigators commissioned by the Texas Juvenile
 3-9 Justice Department as officers under Section 221.011, Human
 3-10 Resources Code; and
 3-11 (36) the fire marshal and any related officers,
 3-12 inspectors, or investigators commissioned by a county under
 3-13 Subchapter B, Chapter 352, Local Government Code.
 3-14 SECTION 3. Section 4, Article 18.20, Code of Criminal
 3-15 Procedure, is amended to read as follows:
 3-16 Sec. 4. OFFENSES FOR WHICH INTERCEPTIONS MAY BE AUTHORIZED.
 3-17 A judge of competent jurisdiction may issue an order authorizing
 3-18 interception of wire, oral, or electronic communications only if
 3-19 the prosecutor applying for the order shows probable cause to
 3-20 believe that the interception will provide evidence of the
 3-21 commission of:
 3-22 (1) a felony under Section 19.02, 19.03, or 43.26,
 3-23 Penal Code;
 3-24 (2) a felony under:
 3-25 (A) Chapter 481, Health and Safety Code, other
 3-26 than felony possession of marihuana;
 3-27 (B) Section 485.032, Health and Safety Code; or
 3-28 (C) Chapter 483, Health and Safety Code;
 3-29 (3) an offense under Section 20.03 or 20.04, Penal
 3-30 Code;
 3-31 (4) an offense under Chapter 20A, Penal Code;
 3-32 (5) an offense under Chapter 34, Penal Code, if the
 3-33 criminal activity giving rise to the proceeds involves the
 3-34 commission of an offense under Title 5, Penal Code, or an offense
 3-35 under federal law or the laws of another state containing elements
 3-36 that are substantially similar to the elements of an offense under
 3-37 Title 5;
 3-38 (6) an offense under Section 38.11, Penal Code; ~~[or]~~
 3-39 (7) an offense under Section 43.04 or 43.05, Penal
 3-40 Code; or
 3-41 (8) an attempt, conspiracy, or solicitation to commit
 3-42 an offense listed in this section.
 3-43 SECTION 4. Article 59.01(2), Code of Criminal Procedure, as
 3-44 amended by Chapters 427 (S.B. 529) and 1357 (S.B. 1451), Acts of the
 3-45 83rd Legislature, Regular Session, 2013, is reenacted and amended
 3-46 to read as follows:
 3-47 (2) "Contraband" means property of any nature,
 3-48 including real, personal, tangible, or intangible, that is:
 3-49 (A) used in the commission of:
 3-50 (i) any first or second degree felony under
 3-51 the Penal Code;
 3-52 (ii) any felony under Section 15.031(b),
 3-53 20.05, 20.06, 21.11, 38.04, or Chapter 43, 20A, 29, 30, 31, 32, 33,
 3-54 33A, or 35, Penal Code;
 3-55 (iii) any felony under The Securities Act
 3-56 (Article 581-1 et seq., Vernon's Texas Civil Statutes); or
 3-57 (iv) any offense under Chapter 49, Penal
 3-58 Code, that is punishable as a felony of the third degree or state
 3-59 jail felony, if the defendant has been previously convicted three
 3-60 times of an offense under that chapter;
 3-61 (B) used or intended to be used in the commission
 3-62 of:
 3-63 (i) any felony under Chapter 481, Health
 3-64 and Safety Code (Texas Controlled Substances Act);
 3-65 (ii) any felony under Chapter 483, Health
 3-66 and Safety Code;
 3-67 (iii) a felony under Chapter 151, Finance
 3-68 Code;
 3-69 (iv) any felony under Chapter 34, Penal

4-1 Code;

4-2 (v) a Class A misdemeanor under Subchapter

4-3 B, Chapter 365, Health and Safety Code, if the defendant has been

4-4 previously convicted twice of an offense under that subchapter;

4-5 (vi) any felony under Chapter 32, Human

4-6 Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that

4-7 involves the state Medicaid program;

4-8 (vii) a Class B misdemeanor under Chapter

4-9 522, Business & Commerce Code;

4-10 (viii) a Class A misdemeanor under Section

4-11 306.051, Business & Commerce Code;

4-12 (ix) any offense under Section 42.10, Penal

4-13 Code;

4-14 (x) any offense under Section 46.06(a)(1)

4-15 or 46.14, Penal Code;

4-16 (xi) any offense under Chapter 71, Penal

4-17 Code;

4-18 (xii) any offense under Section 20.05 or

4-19 20.06, Penal Code; or

4-20 (xiii) [~~xiv~~] an offense under Section

4-21 326.002, Business & Commerce Code;

4-22 (C) the proceeds gained from the commission of a

4-23 felony listed in Paragraph (A) or (B) of this subdivision, a

4-24 misdemeanor listed in Paragraph (B)(vii), (ix), (x), or (xi) of

4-25 this subdivision, or a crime of violence;

4-26 (D) acquired with proceeds gained from the

4-27 commission of a felony listed in Paragraph (A) or (B) of this

4-28 subdivision, a misdemeanor listed in Paragraph (B)(vii), (ix), (x),

4-29 or (xi) of this subdivision, or a crime of violence;

4-30 (E) used to facilitate or intended to be used to

4-31 facilitate the commission of a felony under Section 15.031 or

4-32 43.25, Penal Code; or

4-33 (F) used to facilitate or intended to be used to

4-34 facilitate the commission of a felony under Section 20A.02 or

4-35 Chapter 43, Penal Code.

4-36 SECTION 5. Section 411.0043, Government Code, is amended to

4-37 read as follows:

4-38 Sec. 411.0043. TECHNOLOGY POLICY; REVIEW. (a) The

4-39 commission shall implement a policy requiring the department to use

4-40 appropriate technological solutions to improve the department's

4-41 ability to perform its functions. The policy must ensure that the

4-42 public is able to interact with the department on the Internet.

4-43 (b) The department shall periodically:

4-44 (1) review the department's existing information

4-45 technology system to determine whether:

4-46 (A) the system's security should be upgraded; and

4-47 (B) the system provides the department with the

4-48 best ability to monitor and investigate criminal activity on the

4-49 Internet; and

4-50 (2) make any necessary improvements to the

4-51 department's information technology system.

4-52 SECTION 6. Subchapter A, Chapter 411, Government Code, is

4-53 amended by adding Section 411.0163 to read as follows:

4-54 Sec. 411.0163. HIRING OFFICERS WITH PREVIOUS LAW

4-55 ENFORCEMENT EXPERIENCE. Notwithstanding any other provision of

4-56 law, the department may, at the time a commissioned officer is

4-57 hired, elect to credit up to four years of experience as a peace

4-58 officer in the state as years of service for the purpose of

4-59 calculating the officer's salary under Schedule C. All officers

4-60 are subject to the one-year probationary period under Section

4-61 411.007(g) notwithstanding the officer's rank or salary

4-62 classification.

4-63 SECTION 7. Subchapter A, Chapter 411, Government Code, is

4-64 amended by adding Sections 411.0203, 411.0208, and 411.0209 to read

4-65 as follows:

4-66 Sec. 411.0203. TEXAS TRANSNATIONAL INTELLIGENCE CENTER.

4-67 (a) The department by rule shall establish the Texas Transnational

4-68 Intelligence Center as a central repository of real-time

4-69 information relating to:

5-1 (1) autopsies in which the person's death is likely
 5-2 connected to transnational criminal activity;

5-3 (2) criminal activity in the counties along the
 5-4 Texas-Mexico border and certain other counties; and

5-5 (3) other transnational criminal activity in the
 5-6 state.

5-7 (b) The department shall locate the center in a county with
 5-8 a population of not more than 800,000 that is adjacent to the
 5-9 Texas-Mexico border. The department may only locate the center in a
 5-10 county if the sheriff's department in the county and a police
 5-11 department of a municipality in the county agree to jointly operate
 5-12 the center.

5-13 (c) The sheriff's department of the county in which the
 5-14 center is located and the police department of the municipality
 5-15 that agrees to jointly operate the center shall assist in the
 5-16 establishment of the center.

5-17 (d) Each law enforcement agency in a county located along
 5-18 the Texas-Mexico border or in a county with a federal checkpoint
 5-19 shall report to the center information regarding criminal activity
 5-20 in the law enforcement agency's jurisdiction, including
 5-21 information on kidnappings, home invasions, and incidents of
 5-22 impersonation of law enforcement officers. The Texas Alcoholic
 5-23 Beverage Commission and Parks and Wildlife Department shall report
 5-24 to the center information regarding transnational criminal
 5-25 activity in each agency's jurisdiction.

5-26 (e) The information in the center shall be made available to
 5-27 each law enforcement agency in the state and the Texas Alcoholic
 5-28 Beverage Commission and Parks and Wildlife Department.

5-29 Sec. 411.0208. RESERVE OFFICER CORPS. (a) The commission
 5-30 may provide for the establishment of a reserve officer corps
 5-31 consisting of retired or previously commissioned officers of the
 5-32 department.

5-33 (b) The commission shall establish qualifications and
 5-34 standards of training for members of the reserve officer corps.

5-35 (c) The commission may limit the size of the reserve officer
 5-36 corps.

5-37 (d) The director shall appoint the members of the reserve
 5-38 officer corps. Members serve at the director's discretion.

5-39 (e) The director may call the reserve officer corps into
 5-40 service at any time the director considers it necessary to have
 5-41 additional officers to assist the department in conducting
 5-42 background investigations, sex offender compliance checks, and
 5-43 other duties as determined necessary by the director.

5-44 Sec. 411.0209. DEPARTMENT ASSISTANCE AT INTERNATIONAL
 5-45 BORDER CHECKPOINTS. (a) To prevent the unlawful transfer of
 5-46 contraband from this state to the United Mexican States and other
 5-47 unlawful activity, the department shall investigate the
 5-48 feasibility of providing to federal authorities at international
 5-49 border checkpoints assistance in the interdiction of weapons, bulk
 5-50 currency, stolen vehicles, and other contraband, and of fugitives,
 5-51 being smuggled into the United Mexican States.

5-52 (b) The department may share with the federal government the
 5-53 cost of staffing any international border checkpoints for the
 5-54 purposes described by this section.

5-55 (c) The director shall adopt procedures as necessary to
 5-56 administer this section.

5-57 SECTION 8. Subchapter D, Chapter 411, Government Code, is
 5-58 amended by adding Section 411.054 to read as follows:

5-59 Sec. 411.054. CRIME STATISTICS REPORTING. (a) Each local
 5-60 law enforcement agency shall:

5-61 (1) implement an incident-based reporting system that
 5-62 meets the reporting requirements of the National Incident-Based
 5-63 Reporting System of the Uniform Crime Reporting Program of the
 5-64 Federal Bureau of Investigation; and

5-65 (2) use the system described by Subdivision (1) to
 5-66 submit to the department information and statistics concerning
 5-67 criminal offenses committed in the jurisdiction of the local law
 5-68 enforcement agency.

5-69 (b) The department shall adopt rules to implement this

6-1 section, including rules prescribing:

6-2 (1) the form and manner of the submission of
6-3 information and statistics; and

6-4 (2) the frequency of reporting.

6-5 (c) Notwithstanding any other law, a local law enforcement
6-6 agency that is not in compliance with this section and that receives
6-7 grant funds from the department or the criminal justice division of
6-8 the governor's office may only use those funds to come into
6-9 compliance with this section.

6-10 (d) A local law enforcement agency is not required to comply
6-11 with this section before September 1, 2019.

6-12 (e) Subsection (d) and this subsection expire September 1,
6-13 2019.

6-14 SECTION 9. Subchapter D, Chapter 437, Government Code, is
6-15 amended by adding Section 437.164 to read as follows:

6-16 Sec. 437.164. MULTIUSE TRAINING FACILITY. (a) The Texas
6-17 Facilities Commission shall construct a multiuse training facility
6-18 to be used by the department, the Texas military forces, the Texas
6-19 Department of Public Safety, county and municipal law enforcement
6-20 agencies, and any other military or law enforcement agency,
6-21 including agencies of the federal government, for training
6-22 purposes.

6-23 (b) The Texas Facilities Commission, with the assistance of
6-24 the department and the Texas Department of Public Safety, shall
6-25 locate and acquire real property for the purpose of constructing
6-26 the training facility.

6-27 (c) The department and the Texas Department of Public Safety
6-28 shall, with the assistance of the Texas Facilities Commission,
6-29 design the training facility.

6-30 (d) On completion of the construction of the training
6-31 facility, the Texas Facilities Commission shall transfer ownership
6-32 of the training facility, including the real property and
6-33 buildings, to the department.

6-34 (e) The department shall apply for federal money to
6-35 reimburse the state for the cost of constructing the training
6-36 facility.

6-37 (f) The department shall manage the training facility and
6-38 may adopt rules necessary to implement this section. The
6-39 department shall make the training facility available for use by
6-40 the department, the Texas military forces, the Texas Department of
6-41 Public Safety, county and municipal law enforcement agencies, and
6-42 any other military or law enforcement agency, including agencies of
6-43 the federal government. The department may set and collect fees for
6-44 the use of the training facility.

6-45 SECTION 10. Section 772.007, Government Code, is reenacted
6-46 to read as follows:

6-47 Sec. 772.007. TEXAS ANTI-GANG GRANT PROGRAM. (a) The
6-48 criminal justice division established under Section 772.006 shall
6-49 administer a competitive grant program to support regional,
6-50 multidisciplinary approaches to combat gang violence through the
6-51 coordination of gang prevention, intervention, and suppression
6-52 activities.

6-53 (b) The grant program administered under this section must
6-54 be directed toward regions of this state that have demonstrably
6-55 high levels of gang violence.

6-56 (c) The criminal justice division shall award grants to
6-57 qualified applicants, as determined by the division, that
6-58 demonstrate a comprehensive approach that balances gang
6-59 prevention, intervention, and suppression activities to reduce
6-60 gang violence.

6-61 (d) The criminal justice division shall include in the
6-62 biennial report required by Section 772.006(a)(9) detailed
6-63 reporting of the results and performance of the grant program
6-64 administered under this section.

6-65 (e) The criminal justice division may use any revenue
6-66 available for purposes of this section.

6-67 SECTION 11. Section 20.05, Penal Code, is amended to read as
6-68 follows:

6-69 Sec. 20.05. SMUGGLING OF PERSONS. (a) A person commits an

7-1 offense if the person, with the intent to obtain a pecuniary
7-2 benefit, knowingly:

7-3 (1) ~~[intentionally]~~ uses a motor vehicle, aircraft,
7-4 ~~[or]~~ watercraft, or other means of conveyance to transport an
7-5 individual with the intent to:

7-6 (A) ~~[(1)]~~ conceal the individual from a peace
7-7 officer or special investigator; or

7-8 (B) ~~[(2)]~~ flee from a person the actor knows is a
7-9 peace officer or special investigator attempting to lawfully arrest
7-10 or detain the actor; or

7-11 (2) encourages or induces a person to enter or remain
7-12 in this country in violation of federal law by concealing,
7-13 harboring, or shielding that person from detection.

7-14 (b) An ~~[Except as provided by Subsection (c), an]~~ offense
7-15 under this section is ~~[a state jail felony.~~

7-16 ~~[(c) An offense under this section is]~~ a felony of the third
7-17 degree, except that [if the actor commits] the offense is:

7-18 (1) a felony of the second degree if:

7-19 (A) the actor commits the offense ~~[for pecuniary~~
7-20 ~~benefit; or~~

7-21 ~~[(2)]~~ in a manner that creates a substantial
7-22 likelihood that the smuggled ~~[transported]~~ individual will suffer
7-23 serious bodily injury or death; or

7-24 (B) the smuggled individual is a child younger
7-25 than 18 years of age at the time of the offense; or

7-26 (2) a felony of the first degree if:

7-27 (A) it is shown on the trial of the offense that,
7-28 as a direct result of the commission of the offense, the smuggled
7-29 individual became a victim of sexual assault, as defined by Section
7-30 22.011, or aggravated sexual assault, as defined by Section 22.021;
7-31 or

7-32 (B) the smuggled individual suffered serious
7-33 bodily injury or death.

7-34 (c) ~~[(d)]~~ It is an affirmative defense to prosecution of an
7-35 offense under this section, other than an offense punishable under
7-36 Subsection (b)(1)(A) or (b)(2), that the actor is related to the
7-37 smuggled ~~[transported]~~ individual within the second degree of
7-38 consanguinity or, at the time of the offense, within the second
7-39 degree of affinity.

7-40 (d) ~~[(e)]~~ If conduct constituting an offense under this
7-41 section also constitutes an offense under another section of this
7-42 code, the actor may be prosecuted under either section or under both
7-43 sections.

7-44 SECTION 12. Chapter 20, Penal Code, is amended by adding
7-45 Section 20.06 to read as follows:

7-46 Sec. 20.06. CONTINUOUS SMUGGLING OF PERSONS. (a) A person
7-47 commits an offense if, during a period that is 30 or more days in
7-48 duration, the person engages two or more times in conduct that
7-49 constitutes an offense under Section 20.05.

7-50 (b) If a jury is the trier of fact, members of the jury are
7-51 not required to agree unanimously on which specific conduct engaged
7-52 in by the defendant constituted an offense under Section 20.05 or on
7-53 which exact date the defendant engaged in that conduct. The jury
7-54 must agree unanimously that the defendant, during a period that is
7-55 30 or more days in duration, engaged two or more times in conduct
7-56 that constitutes an offense under Section 20.05.

7-57 (c) If the victim of an offense under Subsection (a) is the
7-58 same victim as a victim of an offense under Section 20.05, a
7-59 defendant may not be convicted of the offense under Section 20.05 in
7-60 the same criminal action as the offense under Subsection (a),
7-61 unless the offense under Section 20.05:

7-62 (1) is charged in the alternative;

7-63 (2) occurred outside the period in which the offense
7-64 alleged under Subsection (a) was committed; or

7-65 (3) is considered by the trier of fact to be a lesser
7-66 included offense of the offense alleged under Subsection (a).

7-67 (d) A defendant may not be charged with more than one count
7-68 under Subsection (a) if all of the conduct that constitutes an
7-69 offense under Section 20.05 is alleged to have been committed

8-1 against the same victim.

8-2 (e) Except as provided by Subsections (f) and (g), an
8-3 offense under this section is a felony of the second degree.

8-4 (f) An offense under this section is a felony of the first
8-5 degree if:

8-6 (1) the conduct constituting an offense under Section
8-7 20.05 is conducted in a manner that creates a substantial
8-8 likelihood that the smuggled individual will suffer serious bodily
8-9 injury or death; or

8-10 (2) the smuggled individual is a child younger than 18
8-11 years of age at the time of the offense.

8-12 (g) An offense under this section is a felony of the first
8-13 degree, punishable by imprisonment in the Texas Department of
8-14 Criminal Justice for life or for any term of not more than 99 years
8-15 or less than 25 years, if:

8-16 (1) it is shown on the trial of the offense that, as a
8-17 direct result of the commission of the offense, the smuggled
8-18 individual became a victim of sexual assault, as defined by Section
8-19 22.011, or aggravated sexual assault, as defined by Section 22.021;
8-20 or

8-21 (2) the smuggled individual suffered serious bodily
8-22 injury or death.

8-23 SECTION 13. Sections 71.02(a) and (b), Penal Code, are
8-24 amended to read as follows:

8-25 (a) A person commits an offense if, with the intent to
8-26 establish, maintain, or participate in a combination or in the
8-27 profits of a combination or as a member of a criminal street gang,
8-28 the person commits or conspires to commit one or more of the
8-29 following:

8-30 (1) murder, capital murder, arson, aggravated
8-31 robbery, robbery, burglary, theft, aggravated kidnapping,
8-32 kidnapping, aggravated assault, aggravated sexual assault, sexual
8-33 assault, continuous sexual abuse of young child or children,
8-34 solicitation of a minor, forgery, deadly conduct, assault
8-35 punishable as a Class A misdemeanor, burglary of a motor vehicle, or
8-36 unauthorized use of a motor vehicle;

8-37 (2) any gambling offense punishable as a Class A
8-38 misdemeanor;

8-39 (3) promotion of prostitution, aggravated promotion
8-40 of prostitution, or compelling prostitution;

8-41 (4) unlawful manufacture, transportation, repair, or
8-42 sale of firearms or prohibited weapons;

8-43 (5) unlawful manufacture, delivery, dispensation, or
8-44 distribution of a controlled substance or dangerous drug, or
8-45 unlawful possession of a controlled substance or dangerous drug
8-46 through forgery, fraud, misrepresentation, or deception;

8-47 (5-a) causing the unlawful delivery, dispensation, or
8-48 distribution of a controlled substance or dangerous drug in
8-49 violation of Subtitle B, Title 3, Occupations Code;

8-50 (6) any unlawful wholesale promotion or possession of
8-51 any obscene material or obscene device with the intent to wholesale
8-52 promote the same;

8-53 (7) any offense under Subchapter B, Chapter 43,
8-54 depicting or involving conduct by or directed toward a child
8-55 younger than 18 years of age;

8-56 (8) any felony offense under Chapter 32;

8-57 (9) any offense under Chapter 36;

8-58 (10) any offense under Chapter 34, 35, or 35A;

8-59 (11) any offense under Section 37.11(a);

8-60 (12) any offense under Chapter 20A;

8-61 (13) any offense under Section 37.10;

8-62 (14) any offense under Section 38.06, 38.07, 38.09, or
8-63 38.11;

8-64 (15) any offense under Section 42.10;

8-65 (16) any offense under Section 46.06(a)(1) or 46.14;

8-66 (17) any offense under Section 20.05 or 20.06; or

8-67 (18) any offense classified as a felony under the Tax
8-68 Code.

8-69 (b) Except as provided in Subsections (c) and (d), an

9-1 offense under this section is one category higher than the most
9-2 serious offense listed in Subsection (a) that was committed, and if
9-3 the most serious offense is a Class A misdemeanor, the offense is a
9-4 state jail felony, except that the offense is a felony of the first
9-5 degree punishable by imprisonment in the Texas Department of
9-6 Criminal Justice for:

9-7 (1) life without parole, if the most serious offense
9-8 is an aggravated sexual assault and if at the time of that offense
9-9 the defendant is 18 years of age or older and:

9-10 (A) the victim of the offense is younger than six
9-11 years of age;

9-12 (B) the victim of the offense is younger than 14
9-13 years of age and the actor commits the offense in a manner described
9-14 by Section 22.021(a)(2)(A); or

9-15 (C) the victim of the offense is younger than 17
9-16 years of age and suffered serious bodily injury as a result of the
9-17 offense; [✂]

9-18 (2) life or for any term of not more than 99 years or
9-19 less than 30 years if the most serious offense is an offense under
9-20 Section 20.06 that is punishable under Subsection (g) of that
9-21 section; or

9-22 (3) life or for any term of not more than 99 years or
9-23 less than 15 years if the most serious offense is an offense
9-24 punishable as a felony of the first degree, other than an offense
9-25 described by Subdivision (1) or (2).

9-26 SECTION 14. The change in law made by this Act to Section 4,
9-27 Article 18.20, Code of Criminal Procedure, applies only to an
9-28 application for an interception order filed on or after the
9-29 effective date of this Act. An application for an interception
9-30 order filed before the effective date of this Act is governed by the
9-31 law in effect on the date the application was filed, and the former
9-32 law is continued in effect for that purpose.

9-33 SECTION 15. The Department of Public Safety shall adopt
9-34 rules required under Section 411.054(b), Government Code, as added
9-35 by this Act, not later than December 31, 2015.

9-36 SECTION 16. The changes in law made by this Act to Sections
9-37 20.05 and 71.02, Penal Code, apply only to an offense committed on
9-38 or after the effective date of this Act. An offense committed
9-39 before the effective date of this Act is governed by the law in
9-40 effect on the date the offense was committed, and the former law is
9-41 continued in effect for that purpose. For purposes of this section,
9-42 an offense was committed before the effective date of this Act if
9-43 any element of the offense occurred before that date.

9-44 SECTION 17. To the extent of any conflict, this Act prevails
9-45 over another Act of the 84th Legislature, Regular Session, 2015,
9-46 relating to nonsubstantive additions to and corrections in enacted
9-47 codes.

9-48 SECTION 18. This Act takes effect September 1, 2015.

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